

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOANNE HART and SANDRA BUENO,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

BHH, LLC d/b/a Bell + Howell and VAN
HAUSER LLC

Defendants.

Civil Action No. 1:15-CV-04804-WHP

**DECLARATION OF YITZCHAK KOPEL IN SUPPORT OF PLAINTIFFS' MOTIONS
TO PRECLUDE THE EXPERT TESTIMONIES OF DR. PAUL BORTH AND DR.
PHILIP WHITFORD AND THE REBUTTAL EXPERT TESTIMONY OF STEFAN
BOEDEKER**

I, Yitzchak Kopel, declare as follows:

1. I am an attorney at law licensed to practice in the State of New York. I am a member of the bar of this Court, and I am an attorney at Bursor & Fisher, P.A., counsel of record for Plaintiffs Joanne Hart and Sandra Bueno ("Plaintiffs") and the certified classes. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. Attached hereto as **Exhibit 1** are excerpts from the January 16, 2018 deposition transcript of Dr. Paul Borth.

3. Attached hereto as **Exhibit 2** are excerpts from the January 12, 2018 deposition transcript of Dr. Philip Whitford.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the October 31, 2017 expert report of Dr. Paul Borth.

5. Attached hereto as **Exhibit 4** is a true and correct copy of “SGS Report SZXWT00603439.”

6. Attached hereto as **Exhibit 5** is a true and correct copy of “Interek Report 140515021GZU-002.”

7. Attached hereto as **Exhibit 6** is a true and correct copy of “Interek Report 140515021GZU-001.”

8. Attached hereto as **Exhibit 7** is a true and correct copy of a published study entitled “Response of German Cockroach (Orthoptera: Blattellidae) Populations to a Frequency Sweeping Ultrasound-Emitting Device” by J.B. Ballard, R.E. Gold, and T.N. Decker (Ballard (1984)).

9. Attached hereto as **Exhibit 8** is a true and correct copy of a published study entitled “Acoustical Characterization and Efficacy Evaluation of Ultrasonic Pest Control Devices Marketed for Control of German Cockroaches (Orthoptera: Blattellidae)” by R.E. Gold, T.N. Decker, and A.D. Vance (Gold (1984)).

10. Attached hereto as **Exhibit 9** is a true and correct copy of the October 31, 2017 expert report of Dr. Michael F. Potter.

11. Attached hereto as **Exhibit 10** is an excerpt from the January 26, 2017 deposition transcript of Dr. Paul Borth in *Galoski v. Applic Consumer Products, Inc.*, Case No. 1:14-cv-0053) (N.D. Ohio).

12. Attached hereto as **Exhibit 11** is a true and correct copy of a published study entitled “Efficacy of Ultrasound for German Cockroach (Orthoptera: Blattallidae) and Oriental Rat Flea (Siphonoptera: Pulicidae) Control” by Philip G. Koehler et al. (Koehler (1986)).

13. Attached hereto as **Exhibit 12** is a true and correct copy of a published study entitled “Lack of Repellency of Three Commercial Ultrasonic Devices to the German Cockroach (Blattodea: Blattellidae)” by Fangnent Hunang and Bhadriraju Subramanayam (Gold (1984)).

14. Attached hereto as **Exhibit 13** is a true and correct copy of a published study entitled “Responses to Mosquitoes and German Cockroaches to Ultrasound Emitted from a Random Ultrasonic Generating Device” by Aqueel Ahmad et al. (Ahmad (2006)).

15. Attached hereto as **Exhibit 14** is a true and correct copy of a study by Dr. Philip Whitford entitled “Trasonic Pro and Yardgard Sonic/Ultrasonic Units Reduce Mouse Damage in Home and Garden.”

16. Attached hereto as **Exhibit 15** is a true and correct copy of the December 22, 2017 rebuttal expert report of Dr. Michael F. Potter.

17. Attached hereto as **Exhibit 16** is a true and correct copy of a document describing the “Operation and Use” of “Trasonic Pro Heavy Duty Pest Repeller.”

18. Attached hereto as **Exhibit 17** is a true and correct copy of the December 22, 2017 rebuttal expert report of Dr. Paul Borth.

19. Attached hereto as **Exhibit 18** is a true and correct copy of “Interek Report 160419051GZU-002.”

20. Attached hereto as **Exhibit 19** are excerpts from the November 29, 2016 deposition transcript of Debbie Feuerstein.

21. Attached hereto as **Exhibit 20** is a true and correct copy of “Interek Report SZXWT00585081.”

22. Attached hereto as **Exhibit 21** are excerpts from the January 26, 2018 deposition transcript of Stefan Boedeker.

23. Attached hereto as **Exhibit 22** is a true and correct copy of “QMANN Report 10275-2.”

24. Attached hereto as **Exhibit 23** is a true and correct copy of “QMANN Report 10275-1.”

25. Attached hereto as **Exhibit 24** is a true and correct copy of the October 31, 2017 expert report of Colin B. Weir.

26. Attached hereto as **Exhibit 25** are excerpts from the January 10, 2018 deposition transcript of Colin B. Weir.

27. Attached hereto as **Exhibit 26** is a true and correct copy of the December 22, 2017 rebuttal expert report of Stefan Boedeker.

28. I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct. Executed on March 9, 2018 at New York, New York.



Yitzchak Kopel